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SUBJECT: FOREIGN RETAILERS DRAW IRE OF THAI SHOPKEEPERS

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11. Summary. Econoff recently attended a National Legislative Assembly seminar on the draft Retail Business Law, held to solicit public feedback on the proposed act. Although few were aware of the actual details of the draft law, it is generally perceived as a means to limit the expansion of largely foreign-owned large-scale retailers. As such the response from the participants, mostly representing small retailers, was overwhelmingly supportive. The response revealed a strong streak of protectionist sentiment amongst Thai retailers. The debate also brought out attitudes about competition, development, and the sufficiency economy that reflect current Thai attitudes. With other major stakeholders (consumers, producers, and large scale retailers) mostly absent or silent, it is unclear to what extent the final law will accommodate the demands of the small retailers. End summary.

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Explaining the Draft Retail Law  
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12. On May 14 the Committee on Public Participation and the Committee on Commerce of the National Legislative Assembly (NLA) held a seminar on the draft Retail Business Law. The seminar featured panel discussions of experts and industry representatives and offered an open forum for public comment on the proposed law. Although there was very little discussion of the actual details of the draft law (septel will include an analysis of the draft law), the seminar provided insight into the attitudes shaping the debate on the law.

13. Mr. Siripol Yodmuangcharoen, the Director General of the Department of Internal Trade, in his comments on the draft law characterized "modern trade" (i.e. large scale retailing) as a "problem," and noted that the Ministry of Commerce had been trying to curb its expansion in Thailand since 2001. Although he argued that the objective of the law was to promote the mutual benefit of all (consumers, producers, large and small retailers), he noted that the RTG had a policy to promote Small and Medium Enterprises, as well as the sufficiency economy model of the King (Ref. A).

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Economic and Legal Viewpoints  
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14. Dr. Narong Petprasert, Dean of the Economics Faculty at Chulalongkorn University, discussed the economic aspects of the act, arguing that the objective was not to curb the expansion of modern trade, but to readjust the relationship between small and large retailers, making the negotiating power of the small operators more equal to their larger competitors. One major disadvantage of modern trade cited by

Dr. Petprasert is reduced employment, since one large retail outlet impacts 200-300 small shops, each with roughly 3 family members employed, but itself hires only about 300.

15. Another disadvantage of modern trade is its elimination of entrepreneurship, replacing scores of small shopkeepers with salary employees. According to Dr. Petprasert, many development theorists emphasize the importance of entrepreneurship for economic development and growth.

16. Dr. Petprasert also sought to include consideration of public goods in the debate on modern trade. He argued that modern trade has a negative impact on such things as traffic congestion, and light and noise pollution. He did, however, acknowledge that in retailing the customer is king, and in that area modern trade had a distinct advantage.

17. Mr. Thitipan Cheuboonchai, Dean of the Law Faculty at Thammasat University, speaking about the legal aspects of the act, acknowledged that Thailand exists in a global economy and there are limits on what restrictions should be placed on foreign investors, yet characterized the behavior of foreign operators as "insulting" in their efforts to find gaps in Thai law. He cited in this context the nominee structures currently under challenge by the RTG, ignoring the fact that the major foreign retailers do not need to resort to such structures under the Foreign Business Act as it now stands (Ref. B). He observed that the framework of the act was quite broad, speculating that this lack of precision might be intended to allow flexibility in implementation. Noting that foreign investors/operators would be concerned that this imprecision would create uncertainty, he argued that the scope of the law should not be broad. As an example he argued that it was not clear on what basis the central committee, which will be responsible for setting policy for

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approval of retail operations, would decide what constitutes a restricted business.

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Stakeholders Disagree  
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18. Mr. Tanapol Tangkananan, Chairman of the Thai Retailers Association (TRA), was the only speaker to strongly argue against the draft law. Modern trade brings many benefits, including greater consumer choice, expanded distribution and logistics networks, stimulation for suppliers, more taxes for government, and even a boost to the construction industry. With respect to the act itself, limiting competition from modern trade will not promote any improvement in the quality of traditional retailers, nor will it provide for improved consumer choice. Competition and investment are necessary for economic development, and placing restrictions on the expansion of modern trade would hinder both.

19. In reply Mr. Somchai Ponratanacharoen, Chairman of the Thai Wholesalers-Retailers Association, argued that the law was necessary to protect Thai people from being taken advantage of by modern trade. Small scale retailers cannot compete against the marketing power of modern trade, or their unscrupulous pricing practices (dumping). He argued that even the conservative 33% market share for modern trade claimed by the TRA was already too much for only five operators. Significantly, he argued against focusing on economic growth, saying that "we don't want growth at the expense of the poor."

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Public Opposition to Modern Trade  
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10. In the open comment portion of the seminar a consumer group representative, noting that consumers mainly want good quality goods at low prices, criticized several aspects of

the draft law. He said that the legal framework of the act, and the definitions used are unclear, that it gave too much power to the committees, that it is redundant with other acts, that it damages the investment climate, and that on the whole it hinders modern trade but does nothing to actually help small retailers. Another speaker, identifying himself as an academic and an advisor to the government, also criticized the draft act for not including any limits on advertising, and not clearly stipulating standards for selection of the committees which will be responsible for approving new retail operations.

¶11. Most of the speakers, however, were from the small retailing sector, including members of the Confederation of Thais Opposing Foreign Retailers, and were strongly supportive of the draft law. Although few seemed to know the details of the law, the pervasive opinion was that it would be a means to limit the expansion of modern trade, which small retailers view as a threat. Comments ranged from charges that modern trade was destroying the livelihoods of poor Thais, to more moderate but NIMBY-laced claims that the small operators don't want to negate foreign retailers, but don't want them to come to local communities. Some noted that farmers following the King's sufficiency economy model grow mixed crops, and that the surplus that they bring to market does not reach the volumes necessary in order to sell to modern trades.

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Comment  
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¶12. Remarks made throughout the seminar, by panelists and public commentators, revealed a uniquely Thai slant to the debate on modern trade. Several speakers referred to the sufficiency economy model promoted by the King. The model was used to highlight the vulnerability of producers to the loss of traditional markets, extol the virtues of small scale operators, and condemn modern trade for selling people more goods than they need and promoting increased public indebtedness.

¶13. Several speakers also criticized modern trades for 'creating conflict.' They lamented that modern trade comes into communities to 'fight' with traditional small-scale retailers. On one level this reflects a criticism of what are viewed as unfair business practices and an abuse of the legal system. On a deeper level it reflects a very Thai cultural aversion to conflict. In that sense the conflict that the speakers are complaining about is simply the very competition that is central to western concepts of capitalism.

¶14. Although the NLA seminar on the draft Retail Law provided little real discussion of the draft act itself, it was

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instructive for understanding the context of the debate surrounding the act. Clearly the strongest forces driving the act is the perceived threat posed by large-scale retailers to traditional small-scale Thai shopkeepers. Because the large scale retailers in Thailand are predominantly foreign owned, the debate frequently takes on nationalistic tones. Additionally, distinctly Thai attitudes towards avoiding conflict (competition) color the perceptions of modern trade retailers. This distaste for being forced to compete for business exacerbates the distress felt by small retailers from the fact that they are generally not commercially competitive with modern trade retailers. This may in part explain why the draft act provides mechanisms to limit the expansion of modern trade, but does not address measures to improve the competitiveness of traditional retailers. The royally-inspired, government-supported concept of the sufficiency economy only serves to give official sanction to the anti-modern trade sentiment.

¶15. The level of response from the retailing community at

this public comment session is not surprising, given that this is the group most directly affected by the issue. The future of Thai retailing and the extent to which modern trade continues to expand in the country is likely to have a significant impact on consumers and producers as well. With input largely missing from these groups it is difficult to determine whether their views support or oppose those of the retailing community. It is also difficult to determine to what extent the final Retail Law will take into account the larger community, or only respond to a vocal small retail sector steeped in a traditional Thai culture not especially in harmony with western economic expectations.

¶16. Septel will examine the details and practical aspects of the draft law.

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